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MEASURES TO PREVENT INTERNATIONAL TERRORISM WHICH ENDANGERS
OR TAKES INNOCENT HUMAN LIVES OR JEOPARDIZES FUNDAMENTAL
FREEDOMS AND STUDY OF THE UNDERLYING CAUSES OF THOSE FORMS
OF TERRORISM AND ACTS OF VIOLENCE WHICH LIE IN MISERY,
FRUSTRATION, GRIEVANCE AND DESPAIR AND WHICH CAUSE SOME
PEOPLE TO SACRIFICE HUMAN LIVES, INCLUDING THEIR OWN, IN AN
ATTEMPT TO EFFECT RADICAL CHANGES:

- (a) REPORT OF THE SECRETARY-GENERAL
- (b) CONVENING, UNDER THE AUSPICES OF THE UNITED NATIONS,
OF AN INTERNATIONAL CONFERENCE TO DEFINE TERRORISM AND
TO DIFFERENTIATE IT FROM THE STRUGGLE OF PEOPLES FOR
NATIONAL LIBERATION

Report of the Secretary-General

Addendum

CONTENTS

	<u>Page</u>
REPLIES RECEIVED FROM GOVERNMENTS	
Netherlands	2
Panama	4
Ukraine	4

NETHERLANDS 1/

[Original: English]

[27 September 1991]

1. The Twelve reaffirm their full support for General Assembly resolution 44/29 of 4 December 1989, in which the Assembly unequivocally condemned, as criminal and not justifiable, all acts, methods and practices of terrorism wherever and by whomever committed. They welcome the decision of the General Assembly to adopt this resolution without a vote, consequently restoring the consensus that had existed previously with regard to this item. The Twelve believe that this resolution and resolutions 40/61 of 9 December 1985 and 42/159 of 7 December 1987 are major steps towards the improvement of international cooperation to eliminate acts of terrorism together with the underlying causes thereof. Those resolutions as well as Security Council resolution 579 (1985) are in full harmony with the view repeatedly stressed by the Twelve that however legitimate a cause may be, it can never justify resort to acts of terrorism, and that such acts damage whatever cause the perpetrators claim to be pursuing.
2. It is the view of the Twelve that any terrorist attack should be seen as an outrage against the international community. Consequently all States should react by strengthening their cooperation in order to root out terrorism.
3. The Twelve wish to stress their commitment to combat terrorism and to reiterate their readiness to cooperate constructively with all States to this end. Developing and implementing effective and concrete measures against terrorism as recommended in the resolutions mentioned above should be emphasized in this cooperation. In this context it is essential that States fulfil their obligations to refrain from organizing, instigating, assisting or participating in terrorist acts in other States, or acquiescing in or encouraging activities within their territory directed towards the commission of such acts. The effective cooperation among States depends upon the strict observance of this principle.
4. The Twelve believe that in accordance with applicable law and through agreed international procedures, States should intensify their cooperation by exchanging relevant information to strengthen the capability of Governments to prevent acts of terrorism and to apprehend and prosecute or extradite persons who have perpetrated or are suspected of having perpetrated such acts.
5. Most of the Twelve have over the past two decades been badly affected by terrorism. They continue to suffer from terrorist attacks. There are also nationals of member States of the Twelve that are still held hostage by terrorists. The Twelve therefore note that the strong appeal, in paragraph 7

1/ On behalf of the 12 States members of the European Community.

of General Assembly resolution 44/29, for the immediate and safe release of all hostages and abducted persons, wherever and by whomever they are being held, has lost none of its urgency.

6. The Twelve wish also to refer to paragraph 5 of General Assembly resolution 44/29 in which the Assembly appealed to all States that had not yet done so to consider becoming party to the international conventions relating to various aspects of terrorism, certain of which are contained in the fourth preambular paragraph of the same resolution. Adherence by States to these conventions can significantly contribute to the objectives of General Assembly resolutions 40/61, 42/159 and 44/29, one of the most important of which is that there must be no safe haven for terrorists. The Twelve therefore note with appreciation the increased adherence to those conventions. In this context, they suggest that the Secretary-General should, when appropriate, take the initiative in asking States, which have not yet become party to one or more of these conventions, to consider ratifying or acceding to them.

7. The Twelve emphasize that in accordance with the basic rule of international law, pacta sunt servanda, every treaty in force is binding upon the parties to it and must be performed by them in good faith. This applies equally to the conventions relating to terrorism, and it is essential that States parties ensure that appropriate law enforcement measures are taken by them in connection with the offences addressed in these conventions.

8. The Twelve are convinced that the best way to combat terrorism is an approach that avoids generalities and focuses on specific acts of terrorism. This approach has been followed with success within universal organizations by the conclusion of a number of conventions. Since the last consideration of this item by the General Assembly, this approach has been continued and developed with the conclusion of a new important instrument, namely the Convention on the Marking of Plastic Explosives for the Purpose of Detection, adopted in Montreal on 1 March 1991. Its prompt entry into force would, in the opinion of the Twelve, be highly beneficial. In this context it is recalled that the Security Council declared itself in its resolution 635 (1989) deeply concerned by all acts of unlawful interference against international civil aviation and urged the International Civil Aviation Organization to intensify its work aimed at preventing all acts of terrorism against international civil aviation, in particular its work on devising an international regime for the marking of plastic or sheet explosives for the purpose of detection.

9. The Twelve are of the opinion that this approach is the right one and that new international instruments following the same approach will be extremely helpful in the fight against terrorism.

10. As regards the convening of an international conference to define terrorism and to differentiate it from the struggle of peoples for national liberation, the Twelve wish to repeat the view already expressed in 1987 and 1989, that it would depart from this approach and serve no useful purpose. Such an exercise would only contribute to perpetuate the misconception, which

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the Twelve have always combated, that there is a link between terrorism and the exercise of the right to self-determination. No practical results can reasonably be expected from convening a conference such as the one proposed. While the main characteristics of terrorism are sufficiently known, defining terrorism presents insurmountable difficulties as experience has shown. Attempts to agree on a definition are not only bound to fail, but may jeopardize the achievements on this important and sensitive subject reached with such difficulty during the past few years. The Twelve are convinced that the negative consequences of holding such a conference would be overwhelming and therefore we should not embark upon such an exercise.

11. In order to combat terrorism the Twelve will continue to take the lead in the fight against it by promoting and adhering to international conventions dealing with specific acts of terrorism and by practical measures and cooperation.

PANAMA

[Original: Spanish]

[7 August 1991]

1. The Government of the Republic of Panama is disturbed by the world-wide persistence of acts of international terrorism in all its forms and is conscious of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism.
2. In Panama changes are being made in measures to prevent and combat terrorism, even though the Panamanian agencies responsible for public security are being reorganized. The relevant measures are being stepped up at airports, seaports, the Panama Canal and diplomatic missions through the use of special law enforcement personnel.
3. In order to ensure the provision of technical and material assistance to Panama for patrolling its territorial sea in cooperation with the United States Coast Guard, an agreement on the subject was recently signed by the Panamanian Government and the Government of the United States.

UKRAINE

[Original: Russian]

1. Ukraine is fundamentally opposed to international terrorism, in all its forms and manifestations, and condemns all terrorist acts regardless of their motives. Terrorism is a monstrous phenomenon which takes innocent lives, disrupts the diplomatic activities of States and their representatives, and destabilizes international relations. The eradication of terrorism depends to a significant extent on the removal of its underlying causes.

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2. Ukraine is in favour of effective international cooperation to combat international terrorism. It has taken part in the preparation and subsequent ratification of a number of international legal agreements in this area, such as the 1970 Convention for the Suppression of Unlawful Seizure of Aircraft, the 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and the 1979 International Convention against the Taking of Hostages. Ukraine is a party to all these agreements and complies unwaveringly with their provisions.

3. Ukraine has also signed the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, and the 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection. Preparations are currently under way for the ratification of these instruments.

4. At the national level, Ukraine has taken the necessary measures, in particular legislative ones, to prevent terrorism.

5. For example, article 58 of the Criminal Code, entitled "Acts of terrorism", defines as such criminal acts the murder of a statesman or representative of authority, or the infliction of serious bodily harm on such persons, in connection with their State or public activities, with a view to undermining or weakening the State power, and it provides severe penalties for the commission of such crimes. Article 59, entitled "Acts of terrorism against representatives of foreign States", defines as such the murder of or infliction of serious bodily harm on such representatives with a view to provoking war or international complications.

6. The destruction or damaging of enterprises, installations, means of communication, telecommunications links or other State or public property by means of explosives, arson or other methods, as well as mass poisonings or the spreading of epidemics and epizootics, are subject to criminal prosecution (art. 60). Also subject to criminal penalties are action or inaction designed to undermine industry, transport or other branches of the national economy, or the activities of State organs or public organizations, with the intention of weakening the State, if such acts are committed by means of disruption of the normal operation of these facilities (art. 61).

7. The Criminal Code also provides severe penalties for gangsterism, which is defined as the organization of armed gangs for the purpose of attacking State or public enterprises and institutions or individuals, as well as membership in such gangs and participation in carrying out their attacks (art. 69) and the deliberate destruction or damage of means of communication or transport (art. 78). Criminal penalties are also provided for the hijacking of aircraft (art. 217²), the unlawful transport on aircraft of explosive or flammable substances (art. 221¹), and the unlawful possession, storage, acquisition, manufacture or sale of firearms or other hand weapons,

ammunition and explosives (art. 222). In addition, acts indirectly connected with the commission of the crimes referred to in articles 58, 59, 60, 61 and 69, and specifically the concealment of such crimes, are subject to criminal sanction.

8. At present Ukraine is conducting a vigorous legislative process, the purpose of which is to give real content to the Act proclaiming the independence of Ukraine adopted by the Ukrainian Parliament on 24 August 1991. This process will take into account the new provisions contained in the latest universal international legal instruments concerning the fight against international terrorism.

9. While condemning acts of international terrorism, Ukraine also rejects any attempts to equate acts of terrorism with the struggle of peoples for their national, economic and social liberation.

10. Despite the fact that in the past few years the world has seen a significant strengthening of the atmosphere of rejection and condemnation of terrorism and although international cooperation against terrorism successfully stood the test of the crisis in the Persian Gulf, the level of this cooperation is not commensurate with the threat represented by international terrorism. Collaboration among States on the basis of the principles and rules of international law and on the basis of universal human values must be further strengthened.

11. The role and capabilities of the United Nations are invaluable in combating terrorism. In this connection, the establishment within the United Nations of a fact-finding body to deal with acts of international terrorism is of special importance. In the light of the views of Member States, the Secretary-General of the United Nations might consider the question of the establishment within the Secretariat of a centre on problems of international terrorism.

12. It would be useful to establish within the International Civil Aviation Organization (ICAO) a permanent centre to organize cooperation among States to combat acts of unlawful interference in civil aviation, together with a similar centre within the International Maritime Organization (IMO).

13. In the longer term these three centres could become an effective international mechanism for combating terrorism.

14. The initiatives for the preparation of an international legal instrument on the physical protection of chemical and biological substances and for the involvement of the International Law Commission in the study of aspects of the fight against international terrorism are also of great significance.

15. The consideration of this issue on an annual basis at the sessions of the General Assembly could also prove an important factor in the use of the possibilities of the United Nations in combating international terrorism.

16. As a member of the Ad Hoc Committee on International Terrorism, Ukraine believes that consideration could be given to the resumption of that body's work. Ukraine has supported and is ready to continue to give assistance to the Ad Hoc Committee's constructive efforts to facilitate the fight against acts of terrorism and secure their rejection in international life. Particularly welcome are the recommendations of the Ad Hoc Committee, approved by the General Assembly, calling upon all States to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in other States, or acquiescing in or encouraging activities within their territory directed towards the commission of such acts.

17. The entry into force of the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which Ukraine ratified this year, constitutes a substantial contribution to the work of the United Nations in combating international terrorism.

18. Ukraine reaffirms its willingness to continue its active participation in the efforts of the international community to eradicate international terrorism and is ready to cooperate constructively in the consideration of any proposals on this question.
